

ANALYSIS OF AMENDED BILL

Author:	<u>Pavley</u>	Analyst:	<u>Janet Jennings</u>	Bill Number:	<u>SB 1054</u>
	<u>See Legislative</u>			Introduced Date	<u>February 16, 2016</u>
Related Bills:	<u>History</u>	Telephone:	<u>845-3495</u>	Amended Date:	<u>April 6, 2016</u>
		Attorney:	<u>Bruce Langston</u>	Sponsor	<u></u>

SUBJECT: FTB Collect Restitution Orders Referred by Counties/Prohibit Referrals if County Board of Supervisors Designated County Agency to Collect

SUMMARY

This bill would limit the ability of the Department of Corrections and Rehabilitation (Corrections) or a county from referring specified debts to the Franchise Tax Board (FTB) for collection.

This bill also would make changes to provisions of the Penal Code that are not administered by the department and are not discussed in this analysis.

RECOMMENDATION

No position.

Summary of Amendments

The bill as introduced February 16, 2016, would limit the ability of Corrections or a county from referring specified debts to the FTB. The April 6, 2016, made technical corrections and amends the Penal Code regarding the collection of specified debts. This is the department's first analysis of the bill.

REASON FOR THE BILL

The reason for the bill is to allow a county agency designated by the county board of supervisors to collect specified debts.

EFFECTIVE/OPERATIVE DATE

This bill would become effective on January 1, 2017, and operative with respect to referrals of restitution orders on or after that date.

STATE LAW

Under current state law, fees, penalties, bail, specified legal costs, forfeitures, certain restitution orders, fines, or certain amounts imposed by a superior, or juvenile court or governmental entity in California totaling no less than \$100, and delinquent for 90 days or more, may be referred by the court or governmental entity to the FTB for collection.

Current state law authorizes the FTB to use administrative collection tools to collect delinquent tax and nontax debt liabilities. Collection actions include, but are not limited to, attaching bank accounts and garnishing wages.

THIS BILL

This bill would prohibit the Corrections or a county from referring a debt for a restitution order to the FTB if a county agency has been designated by the county board of supervisors to collect restitution from individuals who:

- Have been sentenced to a county jail,
- Are on mandatory supervision, or
- Are on post release community supervision.

If the designated county agency has an existing collection system and objects to collection by the FTB, and the designated county agency informs Corrections or county that it will collect the restitution order. If the crime victim entitled to restitution in the order notifies either Corrections or the designated county agency with regard to his or her preference of a collecting agency, that preference would be honored and the collection would be performed in accordance with the preference of the victim.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation considerations:

The bill would prohibit Corrections or a county from referring a restitution order to the FTB, but would allow the victim to choose the FTB as the collection agency. This conflicting language could cause confusion; therefore, the bill should be amended to move the language allowing a victim to choose the collecting agency to another paragraph.

LEGISLATIVE HISTORY

SB 1210 (Lieu, Chapter 762, Statutes of 2012) authorized the referral of delinquent fines, state and local penalties, forfeitures, restitution fines and orders, and other amounts imposed by a juvenile court to the FTB for collection.

SB 647 (Committee on Judiciary, Chapter 208, Statutes of 2011) allows the FTB to collect specified legal costs relating to an order of the juvenile court. Specified legal costs include the costs for counsel appointed to represent parents or minors pursuant to dependency proceedings.

AB 273 (Anderson, 2009/2010) would have eliminated the minimum balance thresholds referred for collection by FTB, would have provided for additional collection costs of the courts to be added to the amounts referred to the FTB, and would have made the referrals mandatory for superior courts. This bill failed to pass by the constitutional deadline.

SB 556 (Committee on Judiciary, Chapter 596, Statutes of 2009) added bail as a debt type authorized to be referred to the FTB for collection.

OTHER STATES' INFORMATION

Since this bill would repeal specified non-tax debt from being referred to the department's collection program, a review of other states' income tax laws would not be relevant.

FISCAL IMPACT

This bill would not impact department costs.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file.

ARGUMENTS

Proponents: Some could argue that counties with existing collection agencies would be better able to collect restitution debts.

Opponents: Some could argue that the FTB is better able to collect restitution debts.

LEGISLATIVE STAFF CONTACT

Janet Jennings
Legislative Analyst, FTB
(916) 845-3495
janet.jennings@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Gail Hall
Legislative Director, FTB
(916) 845-6333
gail.hall@ftb.ca.gov